# APPENDIX A

IN THE SUPERIOR COURT OF PUERTO RICO
SAN JUAN PART

Civil No. 64-109

**Wages**

Alejandro Otero, Gregorio Peña, Angel Ortiz, Hipolito Berrios, Felix Rivera, Ildefonso Martinez, Abraham Torres, Ramon Berrios, Jose Rosado, Jose Ines Soto, Luis G. Feliciano, Benito Morales, Luis A. Miranda, Francisco Carrasquillo, Victor Marrero, Antonio Delgado, Eleuterio Ortiz, Isidro Figueroa, Angel M. Oyola, Benito Andujar, German Torres, Francisco Cancel, Julian Sierra, Marcial Matos, Ramon Pabon, Alfredo Suarez, Jose E. Lugo, Antonio Garcia, Hector L. Maldonado, Hector L. Bonilla, Andres Peña, Angel L. Bonilla, Angel L. Ortiz, Victor Nieves, Rafael Robles, Cristobal Lopez, Francisco Mangual, Roberto Diaz, Santos Rivera, Daniel Pena, Jose A. Sauri, Samuel Perez, Fremiot Ramirez, Daniel Mujica, Edgardo B. Garayua, Rafael A. Ortiz, Ramon M. Santiago, Jorge Berrios, William Velez, Ramon Jorge, Wenceslao Del Moral, Carmelo Class, Miguel A. Pellicia, Jose V. Rodriguez, Juan A. Berrios, Francisco Colon, Damaso Ortiz, Santiago Maldonado, Andres Sanchez, Gregorio Maldonado, Samuel Polanco, Pedro L. Rodriguez, Carmelo Perez, Gregorio Diaz, Angel L. Orsini, Perdo J. Colon, Felipe Santiago, Angel L. Sanchez, Fidel Burgos, Federico Rivera, Domitilo Delgado, Angel Visa, Victor Vega, Tomas Gonzalez, Rafael Rivera, Victor Davila, Efrain Oquendo, Miguel Rodriguez, Leopoldo Cornier, Jose E. Ortiz,

*Plaintiffs,*

v.

Pepsi Cola Bottling Co. of Puerto Rico, Inc., *Defendant.*

**Complaint**

Civil No. 64-109

To the Honorable Court:

Now come the plaintiffs in the above-captioned case, through their undersigned counsel, and respectfully allege:

1. During the dates involved in this claim, that is, from January 10, 1954, up to the date this complaint was filed, plaintiffs worked for the defendant, hours in excess of eight (8) hours within each TWENTY-FOUR (24) consecutive-hour period and in excess of FORTY (40) and of FORTY-EIGHT (48) within the regular workweek, without the hours thus worked having been paid to them at a rate double the regular wage rate earned by each plaintiff.

2. For the above-mentioned concept defendant owes plaintiffs the sum of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00) in the specific amount that may result for each plaintiff after computing the payrolls, daily work sheets, payment records, and other evidence pertinent hereto.

WHEREFORE, plaintiffs respectfully pray the Honorable Court to order the defendant to pay to plaintiffs the sum of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00) plus the same amount as liquidated damages as provided by law, as well as attorney's fees.

San Juan, Puerto Rico, January 10, 1964.

/s/ VICTOR M. BOSCH
Nicolas Delgado Rivera
Counsel for plaintiffs
Box 648
San Juan, Puerto Rico

## APPENDIX B

IN THE SUPREME COURT OF PUERTO RICO

C-65-11

Alejandro Otero *et al., Petitioners*

v.

Superior Court of Puerto Rico, San Juan Part, Hon. Manuel A. Moreda, Judge, *Respondent*

v.

Pepsi-Cola Bottling Company of Puerto Rico, *Intervener*

**Judgment**

Division composed of Mr. Justice Belaval as Chief Judge of Division, Mr. Justice Santana Becerra, Mr. Justice Blanco Lugo, and Mr. Justice Ramirez Bages

San Juan, Puerto, Rico, March 18, 1966

Petitioners filed a complaint against Pepsi Cola Bottling Company of Puerto Rico, an enterprise engaged in interstate commerce, claiming extra hours worked in excess of 8 hours per day and between 40 and 48 hours per week. It covers the period of time comprised between January 10, 1954, and the date on which the complaint was filed, January 13, 1964, during which time certain collective agreements were in force between respondent and the Union mittee a written complaint setting forth the facts in issue representing plaintiffs, containing arbitration clauses. All these agreements were negotiated and signed prior to our opinion in *Perez* v. *Water Resources Authority,* P.R.R. (January 25, 1963).[1] The lower court held that since

[1] In the first agreement signed *after* the aforesaid opinion it was stipulated that "The arbitrator may *not* interfere in wage claims . . . overtime . . . "

the enterprise was engaged in interstate commerce, the restriction concerning the prospective effectiveness of the *Preaz* doctrine was not applicable, and ordered the claim to be submitted to arbitration.

In the light of the decision of *Martinez* v. *Commonwealth Oil Refining Co.*, P.R.R. (dec. June 30, 1965), cert. den. 382 U.S. (March 7, 1966), that Court committed an error. *Cf.* judgment entered today in *Withington* v. *RCA Communications, Inc.*, R-64-148.

The judgment entered by the Superior Court, San Juan Part, on December 14, 1964, is hereby set aside and the case is remanded for further proceedings.

It was thus ordered and decreed by the Court as witnesses the signature of the Chief Justice.

/s/ Luis Negrón Fernández
Chief Justice

I attest:

/s/ Joaquín Berríos
Acting Secretary

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## APPENDIX C

IN THE SUPERIOR COURT OF PUERTO RICO
SAN JUAN PART

Civil No. 64-109

**Wages**

Alejandro Otero *et al.*, *Plaintiffs*

v.

Pepsi Cola Bottling Co. of Puerto Rico, *Defendant*

**Order**

In consideration of the fact that the defendant is an enterprise subject to the provisions of the Federal Act and that there exists between the parties a collective agreement

adquately worded to submit the instant claim to arbitration, which remedy has not been exhausted, the complaint is dismissed and it is hereby ordered that the plaintiffs' claim be submitted to arbitration.

Let this Order be served.

San Juan, Puerto Rico, December 14, 1964.

/s/ MANUEL A. MOREDA
Judge

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## APPENDIX D

### Statute Involved

Labor Managament Relations Act of 1947, Section 301 (a) (61 Stat. 156, 29 U.S.C. § 185(a)):

> "(a) Suits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce as defined in this chapter, or between any such labor organizations, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in the controversy or without regard to the citizenship of the parties."

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## APPENDIX E

### Article III

### Grievance Committee

A. The Union shall designate one (1) representative in each department of the Company included within the bargaining unit. The Union shall notify the Company in writing the names of the representatives of the department, and the Union shall promptly notify the Company in writing of any changes.

B. Should any controversy, dispute, conflict, or any misunderstanding arise for any reason whatsoever between the Union and the Company involving the meaning and application of this agreement, or any controversy, conflict, or dispute between the Union and the Company regarding the lay-off or dismissal of one or more employees, as hereinafter defined, such matter may be finally and unappealably settled as follows:

First Step

The employee in question, through the Union representative, shall discuss the matter with the general manager or person acting in his place not later than three (3) working days after the incident or complaint has arisen. Three (3) working days thereafter the general manager or person acting in his place shall submit his answer to settle the matter.

Second Step

(1) If no agreement is reached within the above-prescribed period, the Grievance Committee, composed of two (2) Company representatives and two (2) Union representatives, shall acquire jurisdiction to take cognizance of and decide the issue.

(2) Not later than five (5) working days after the decision of the general manager is known, the Union, if it decides to proceed with the case, shall file before the Committee a written complaint setting forth the facts in issue and shall call the latter for a meeting. Once the aforesaid complaint is filed before the Grievance Committee, the latter shall meet and consider the allegations of the parties in question, receiving any pertinent evidence. The Committee must render a decision within ten (10) working days following the date on which the Union filed its complaint. The Committee must keep minutes of each meeting and said minutes shall be signed by the members of the Committee.

(3) Should the Grievance Committee be unable to render a decision within the above-prescribed period of time, it shall request the Arbitration and Mediation Bureau of the Labor Department of Puerto Rico to designate an arbitrator to work together with the Committee members in order to settle the matter as soon as possible. The Committee thus composed of five (5) members shall have authority to settle the matter definitively after hearing the case on its merits.

C. The Grievance Committee shall have jurisdiction where the Union alleges that an employee or employees have been laid off or dismissed without just cause and if in such case the Committee should determine, on the basis of the weight of the evidence heard, that the employee was laid off or dismissed without just cause, the Committee shall order the Company to take any affirmative action, including the reinstatement of the employee or employees involved, with or without back pay, which in the judgment of the Committee may be necessary to enforce the decision of the latter; provided, however, that in order for the Union or an employee to be entitled to present a dismissal or lay-off before the Grievance Committee, the employee in question must have finished his probationary period.

D. The decisions of the Grievance Committee, with or without the arbitrator, shall be final and unappealable.

E. The Grievance Committee has no jurisdiction to alter, amend, or modify the decisions of this agreement.

F. Within ten (10) days following the date of execution hereof the parties shall designate their representatives before the Grievance Committee and shall, in addition, designate two (2) substitute members for each party. Both parties may change their representatives in the Committee, but they must promptly notify the other party in writing of any such changes.

## APPENDIX F

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

No. 163-63

Pepsi Cola Bottling Company of Puerto Rico, Inc.,
*Plaintiff,*
v.
Unidad General de Trabajadores de Puerto Rico (UGT), Afiliada a la Unidad Brewery Workers of America, AFL-CIO, Local 611; Santos Rivera Canales, Francisco Colon, Gregorio Maldonado, Jose Ines Soto, and Julian Sierra, *Defendants.*

Filed May 6, 1963

Declaratory Judgment Suit and Class Action

### Complaint

To the Honorable Court:

Now comes Pepsi Cola Bottling Company of Puerto Rico, Inc. (hereinafter referred to as the Plaintiff) and respectfully alleges:

1. Plaintiff is a corporation organized under the laws of the Commonwealth of Puerto Rico with its principal place of business in Hato Rey, San Juan, Puerto Rico, wherein it is engaged in the manufacturing of soft drinks.

2. Unidad General de Trabajadores de Puerto Rico (UGT), Afiliada a la Unidad Brewery Workers of America, AFL-CIO, Local 611 (hereinafter referred to as Defendant Union) is a labor organization which represents the employees of Plaintiff, including Co-Defendants Santos Rivera Canales, Francisco Colón, Gregorio Maldonado, José Inés Sote, and Julián Sierra.

3. Co-Defendants Santos Rivera Canales, Francisco Colón and Gregorio Maldonado are employed by Plaintiff as driver-salesmen, and Co-Defendants José Inés Soto and Julián Sierra are employed by Plaintiff as assistant driver-

salesmen (these Co-Defendants will be referred to hereinafter collectively as Defendant Employees).

4. The Defendant Employees are representatives of the class which has been described in the previous paragraph.

5. The Defendant Union, in the name of Defendant Employees and the other members of their class, contends that Plaintiff violates the Fair Labor Standards Act of 1938, as amended, 29 USC 201-219, in its payment of Defendant Employees and other employees similarly situated.

6. The amount in controversy exceeds the sum of $10,000.00, exclusive of interest and costs.

7. The jurisdiction of this Hon. Court is based upon 28 USC Sec. 1331.

8. Plaintiff contends that its payment of defendant employees and other employees similarly situated fully complies with the Fair Labor Standards Act of 1938, as amended, 29 USC 201-219.

9. A material controversy now exists between Plaintiff, Defendant Union and Defendant employees and other employees similarly situated.

WHEREFORE, plaintiff prays that this Honorable Court enters judgment declaring that plaintiff is complying with the Fair Labor Standards Act of 1938, as amended, 29 USC 201-219, and grant such other and further considerations as the Honorable Court may deem appropriate and just.

In San Juan, Puerto Rico, this 2d day of May, 1963.

FIDDLER, GONZALEZ & RODRIGUEZ
*Attorneys for Plaintiff*
IBM Bldg.—1605 Kings Court
Box 3507—San Juan, P. R.

By: (s) JUAN R. TORRUELLA
Juan R. Torruella del Valle

## APPENDIX G

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

Civil No. 163-63

Pepsi Cola Bottling Company of Puerto Rico, Inc., *Plaintiff*,

v.

Unidad General de Trabajadores de Puerto Rico (UGT), Afiliada a la Unidad Brewery Workers of America, AFL-CIO, Local 611; Santos Rivera Canales, Francisco Colon, Gregorio Maldonado, Jose Ines Soto, and Julian Sierra, *Defendants*.

### Answer to the Complaint

To the Honorable Court:

Now come defendants through their undersigned attorney, and answering the complaint in the instant proceeding, respectfully state:

1. Defendants admit allegations number 1, 2, 3, 4, 5, 6 and 9 of the complaint.

2. Defendants deny allegation number 8 of the complaint, to the effect that plaintiff is fully complying with the Fair Labor Standards Act of 1938, as amended, 29 USC 201-219, and on the contrary state that plaintiff has violated and continues violating said Act, in its payment of wages to defendant employees and other employees similarly situated.

3. Allegation number 7 is hereby denied based upon the fact that plaintiff has not in any way complied with the administrative proceeding fixed in the collective bargaining agreement negotiated between plaintiff and defendants, which proceeding is a *sine qua non* requisite to be

followed prior to the filing of any judicial action in the instant controversy.

WHEREFORE defendants pray that this Honorable Court enter judgment dismissing the complaint in this case.

San Juan, Puerto Rico, this 24th day of September 1963.

(s) MARTÍN AVILÉS BRACERO
Martín Avilés Bracero
*Attorney for Defendants*
Box 815—Tel. 722-0993
San Juan, Puerto Rico

A true copy of the above answer to the complaint has been sent by mail to Mr. Juan R. Torruella del Valle, Esq., attorney for plaintiff, Box 3507, San Juan, Puerto Rico, on September 24, 1963.

(s) MARTÍN AVILÉS BRACERO
Martín Avilés Bracero

## APPENDIX H

Mr. Charlie T. Mock, Jr.
Pres. Pepsi-Cola Bottling
Co. of Puerto Rico, Inc.

Dear Mr. Mock:

This is to ask you to meet with the Grievance Committee in order to hear a complaint of the workers of your Company in the sense that they are working extra hours receiving no pay therefor.

For this reason we shall be in your office Wednesday, January 20, 1965, at 5:00 p.m., to hear the case.

Truly yours,

(s) ANSELMO SANTIAGO
S.I.U. Organizer
1313 Fernández Juncos Ave.
Santurce, Puerto Rico

cc: S.I.U.

Felipe de Jesús

NOTE: We are thus complying also with the Order of the Superior Court, San Juan Part, which on December 14, 1964, ordered submission to the Grievance Committee of the wage claim which in connection with Civil Case No. 64-109 was heard in that Part.